

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1407

Introduced by Assembly Member Bradford

March 13, 2013

An act to amend Sections 871.5 and 873 of, *to add Sections 875.5 and 1001.7 to*, to repeal Sections 871.7, ~~878~~, 879, 879.5, 880, 882, and 883 of, and to repeal and add Sections 872, 874, 875, 876, ~~and 877~~, and 878 of, the Public Utilities Code, relating to public communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1407, as amended, Bradford. Public utilities: voice communications service: lifeline program.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Under the act, universal service is an evolving level of telecommunications services that the Federal Communications Commission is required to establish periodically, taking into account advances in telecommunications and information technologies and services. Pursuant to the act, the Federal Communications Commission has established and revised a lifeline program that is available for qualifying low-income consumers.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. The Moore Universal Telephone Service Act establishes the Universal Lifeline Telephone Service program in order to provide low-income households with access to affordable basic residential telephone service. Existing law establishes the Universal Lifeline Telephone Service Trust Administrative Committee Fund in the State Treasury.

This bill would recast the Moore Universal Telephone Service Act so that it would provide a household, as defined, having an eligible customer, as defined, with high-quality voice communications service at affordable rates. The bill would state the intent of the Legislature to ensure that California residents have access to technologies and services and to promote technological neutrality by giving lifeline customers the ability to choose the communications provider and service that best meet their unique needs, while encouraging providers to participate in the lifeline program.

The Moore Universal Telephone Service Act requires the Public Utilities Commission to annually designate a class of lifeline service necessary to meet minimum residential, as defined, communications needs, to set the rates and charges for that service, to develop eligibility criteria for that service, and to assess the degree of achievement of universal service, including telephone penetration rates by income, ethnicity, and geography.

The bill would instead require the Public Utilities Commission to annually develop eligibility criteria for customers to participate in the program, assess the penetration rates for lifeline service by income, ethnicity, and geography, and to prepare and submit a report to the Legislature on the fiscal status of the lifeline program that includes a statement of the lifeline program surcharge level and revenues produced by the surcharge, the size of the Universal Lifeline Telephone Service Trust Administrative Committee Fund, the reason for a decline or increase in the size of the fund, if applicable, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency.

The Moore Universal Telephone Service Act requires that the Universal Lifeline Telephone Service rates be set at no more than 50% of either the basic rate for measured residential telephone service or the basic flat residential telephone rate service, as applicable, exclusive of federally mandated end user access charges that are available to the residential subscriber. Existing law requires that the lifeline telephone

service installation or connection charge, or both, be not more than 50% of the charge for basic residential service installation or connection.

The bill would repeal these requirements and instead require that through and including December 31, 2014, the nonrecurring service charge for commencing voice service for a single voice connection for a lifeline customer be no greater than \$10. Until and including December 31, 2014, the lifeline provider would be eligible for reimbursement from the fund for the difference between the nonrecurring charge paid by a lifeline subscriber and the nonrecurring charge the lifeline provider charges for identical services in the ordinary course of business to subscribers that are not eligible customers, subject to the limitation that the reimbursement can be no more than \$40 per connection. Beginning January 1, 2015, the Public Utilities Commission would be authorized to annually increase the nonrecurring service charge incurred by eligible customers, and the lifeline provider connection reimbursement, by an amount in proportion to the increase, if any, to the Consumer Price Index for All Urban Consumers (CPI-U). *The bill would authorize the commission to authorize a lifeline provider to be reimbursed pursuant to these provisions, for commencing voice service for an eligible customer, only if that provider is the customer's carrier of last resort for basic service.*

The bill would require that every eligible customer be given a discount of \$11.85 per month, in addition to any federally supported lifeline discount provided to customers of an eligible telecommunications carrier, and would, beginning January 1, 2015, authorize the commission to annually adjust the support amount in proportion to the increase, if any, in the CPI-U. The bill would provide that an eligible customer is not entitled to any combined monthly federal and state lifeline support in excess of the customer's monthly rate. The bill would require that state lifeline support be provided only after federal lifeline support, if any, is received by an eligible customer.

The bill would require that all providers participating in the California lifeline program offer lifeline service at the same rates that were in effect on July 1, 2013, through and including December 31, 2014. The bill would require every lifeline provider, on first contact by a prospective eligible customer, to inform the customer of the availability of the lifeline discount and how that customer may qualify for and obtain the discount. The bill would provide that a lifeline provider that is a prospective eligible customer's carrier of last resort

for basic service remains subject to any customer notification obligations applicable to the provision of basic service.

The Public Utilities Act prohibits any telephone corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require that construction (certificate of public convenience and necessity).

This bill would prohibit the commission from denying or revoking a certificate of public convenience and necessity applied for by or issued to a telephone corporation that provides retail or wholesale telecommunications services on the grounds that the telephone corporation also provides Voice over Internet Protocol service or any other unregulated service.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and would require action by the Public Utilities Commission to implement its requirements, and because the bill would expand the class of lifeline providers, the bill would impose a state-mandated local program by expanding the scope of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Technological advances in Internet and mobile
- 4 communications have resulted in a variety of new voice
- 5 communications offerings beyond traditional wireline telephone
- 6 service, such as mobile telephony service, commonly known as
- 7 cellular telephone service, and Voice over Internet Protocol service.

1 (b) California consumers are increasingly choosing these new
2 voice communications services, while conversely, traditional
3 telephone subscriptions are decreasing.

4 (c) The Moore Universal Telephone Service Act should be
5 modernized in order to maintain the vitality of its original policy
6 goals by acknowledging that technologies, services, and business
7 models other than traditional telephone service can be used to offer
8 low-income citizens access to affordable, reliable, and high-quality
9 communications service.

10 (d) In enacting this act, it is the intent of the Legislature to ensure
11 that California residents have access to technologies and services
12 and to promote technological neutrality by giving lifeline customers
13 the ability to choose the voice communications service provider
14 and service that best meets their unique needs, while encouraging
15 mobile telephony service and other nontraditional providers to
16 participate in the lifeline program.

17 SEC. 2. Section 871.5 of the Public Utilities Code is amended
18 to read:

19 871.5. The Legislature finds and declares all of the following:

20 (a) The offering of high-quality voice communications service
21 at affordable rates to the greatest number of citizens has been a
22 longstanding goal of the state.

23 (b) The Moore Universal Telephone Service Act is an important
24 means for achieving universal service by making voice
25 communications service affordable to low-income households
26 through the lifeline program.

27 (c) The Federal Communications Commission has recently
28 reformed and modernized the federal universal service fund's
29 lifeline program by, among other things, adopting a technology
30 neutral approach to lifeline.

31 (d) Every means should be employed by the commission to
32 ensure that every household qualified to receive lifeline support
33 is informed of and is afforded the opportunity to obtain that
34 support. Nothing in this section effects an eligible
35 telecommunications carrier's obligations to advertise the
36 availability of its offerings and charges for those offerings using
37 media of general distribution under Section 54.201(d)(2) of Title
38 47 of the Code of Federal Regulations. The commission shall not
39 impose any additional advertising obligations on lifeline providers.

(e) The furnishing of lifeline support is in the public interest. The commission, in administering the lifeline program, should implement the program in a way that is equitable, nondiscriminatory, and without competitive consequences for the telecommunications industry in California.

SEC. 3. Section 871.7 of the Public Utilities Code is repealed.

SEC. 4. Section 872 of the Public Utilities Code is repealed.

SEC. 5. Section 872 is added to the Public Utilities Code, to read:

872. As used in this article, the following terms have the following meanings:

(a) “Eligible customer” means any person who has, after providing adequate supporting documentation, been determined to be eligible to receive lifeline support by a third-party lifeline administrator. A lifeline provider shall not be obligated to provide, nor shall any person be entitled to receive, any lifeline support until that person has been determined to be an eligible customer by a third-party lifeline administrator. A customer applying to become an eligible customer shall not be required to first establish service as a condition for lifeline eligibility.

(b) “Household” means any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person 18 years of age or older. If an adult has no or minimal income, and lives with someone who provides financial support to him or her, both people shall be considered part of the same household. Children under 18 years of age living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(c) (1) “Lifeline provider” means any telephone corporation or alternative provider that meets all of the following requirements:

(A) Provides voice communications services that are eligible for federal universal service support pursuant to Section 54.101 (a) of Title 47 of the Code of Federal Regulations.

(B) Collects and remits surcharges for ~~the lifeline program~~ *all universal service programs funded through those funds created pursuant to Section 270 and for the emergency telephone system described in Section 41030 of the Revenue and Taxation Code.*

1 (C) Voluntarily chooses to participate in the lifeline program
2 or is otherwise mandated to offer basic service ~~as of January 1,~~
3 ~~2013.~~

4 (D) Agrees to comply with, and be held liable for any violations
5 of, this article and any commission rules implementing this article,
6 as enforced by the commission.

7 (2) Any “lifeline provider,” including a local exchange carrier,
8 may use any technology, or multiple technologies, within the
9 provider’s service territory, *except as otherwise required pursuant*
10 *to the obligation of a carrier of last resort to provide basic service*
11 *to any customer upon request, including any eligible customer.*

12 SEC. 6. Section 873 of the Public Utilities Code is amended
13 to read:

14 873. The commission shall annually do all of the following:

15 (a) Develop eligibility criteria for eligible customers to
16 participate in the lifeline program. The commission shall not
17 increase lifeline income limits from those in effect on January 1,
18 2013, except for an annual adjustment to reflect inflation based
19 on changes to the United States Consumer Price Index for All
20 Urban Consumers (CPI-U).

21 (b) Assess the penetration rates for the lifeline program by
22 income, ethnicity, and geography. This information shall be
23 annually reported to the Legislature by the commission in a
24 document that can be made public.

25 (c) Notwithstanding Section 10231.5 of the Government Code,
26 not later than March 31 of each year, prepare and submit a report
27 to the Legislature on the fiscal status of the lifeline program. The
28 report shall be submitted in compliance with Section 9795 of the
29 Government Code. The report shall include a statement of the
30 lifeline program surcharge level and revenues produced by the
31 surcharge, the size of the Universal Lifeline Telephone Service
32 Trust Administrative Committee Fund, the reason for a decline or
33 increase in the size of the fund, if applicable, an accounting of
34 program expenses, and an evaluation of options for controlling
35 those expenses and increasing program efficiency.

36 SEC. 7. Section 874 of the Public Utilities Code is repealed.

37 SEC. 8. Section 874 is added to the Public Utilities Code, to
38 read:

39 874. (a) *The commission may authorize a lifeline provider to*
40 *be reimbursed pursuant to this section for commencing voice*

1 *service for an eligible customer only if that provider is the*
2 *customer's carrier of last resort for basic service.*

3 (b) Until and including December 31, 2014, the nonrecurring
4 service charge for commencing voice service for a single voice
5 connection for a lifeline customer shall be no more than ten dollars
6 (\$10). Until and including December 31, 2014, a lifeline provider
7 shall be eligible for reimbursement from the Universal Lifeline
8 Telephone Service Trust Administrative Committee Fund for the
9 difference between the nonrecurring charge paid by a lifeline
10 subscriber and the nonrecurring charge the lifeline provider charges
11 for identical service in the ordinary course of business to
12 subscribers that are not eligible customers, subject to the limitation
13 that the reimbursement to the lifeline provider shall be no more
14 than forty dollars (\$40) per connection.

15 ~~(b)~~

16 (c) Beginning January 1, 2015, the commission may annually
17 increase the nonrecurring service charge incurred by eligible
18 customers by an amount in proportion to the increase, if any, to
19 the Consumer Price Index for All Urban Consumers (CPI-U). If
20 the commission exercises this authority, then it also shall increase
21 the lifeline provider connection reimbursement by a proportionate
22 amount.

23 SEC. 9. Section 875 of the Public Utilities Code is repealed.

24 SEC. 10. Section 875 is added to the Public Utilities Code, to
25 read:

26 875. (a) Except as provided in subdivision (b), every eligible
27 customer shall be given a discount of eleven dollars and eighty-five
28 cents (\$11.85) per month, in addition to any federally supported
29 lifeline discount provided to customers of an eligible
30 telecommunications carrier. Beginning January 1, 2015, the
31 commission may annually adjust the support amount in proportion
32 to the increase, if any, in the Consumer Price Index for All Urban
33 Consumers (CPI-U).

34 (b) An eligible customer shall not be entitled to any combined
35 monthly federal and state lifeline support in excess of the eligible
36 customer's monthly rate. State lifeline support shall be provided
37 only after federal lifeline support, if any, is received by an eligible
38 customer. Lifeline providers shall be eligible for reimbursement
39 from the Universal Lifeline Telephone Service Trust
40 Administrative Committee Fund in an amount not to exceed the

1 amount of state lifeline support that is actually received by an
2 eligible customer.

3 (c) To the extent necessary to support the lifeline program, the
4 commission may assess a lifeline surcharge in an amount not to
5 exceed 3.3 percent of the subscriber's charges for intrastate
6 telephone communications services or interconnected Voice over
7 Internet Protocol (VoIP) service. The methodology for applying
8 the lifeline surcharge to interconnected VoIP service shall be that
9 set forth in subdivision (e) of Section 285.

10 *SEC. 11. Section 875.5 is added to the Public Utilities Code,*
11 *to read:*

12 *875.5. (a) Through and including December 31, 2014, all*
13 *providers participating in the California lifeline program shall*
14 *offer lifeline service at the same rates that were in effect on July*
15 *1, 2013.*

16 *(b) Every lifeline provider, on first contact by a prospective*
17 *eligible customer, shall inform the customer of the availability of*
18 *the lifeline discount and how that customer may qualify for and*
19 *obtain the discount. A provider may present that information orally,*
20 *electronically, or in print form.*

21 *(c) A lifeline provider that is a prospective eligible customer's*
22 *carrier of last resort for basic service shall also remain subject to*
23 *any customer notification obligations applicable to the provision*
24 *of basic service.*

25 ~~SEC. 11.~~

26 *SEC. 12. Section 876 of the Public Utilities Code is repealed.*

27 ~~SEC. 12.~~

28 *SEC. 13. Section 876 is added to the Public Utilities Code, to*
29 *read:*

30 *876. (a) The commission shall, upon a request of a provider,*
31 *designate as a lifeline provider a telephone corporation*
32 *or alternative provider that meets the requirements of subdivision*
33 *(c) of Section 872. The commission shall, upon a request of a*
34 *provider, designate the lifeline provider as an eligible*
35 *telecommunications carrier shall not, in exercising its delegated*
36 *authority under federal law to designate eligible*
37 *telecommunications carriers, or in exercising its authority under*
38 *this section to designate state lifeline providers, deny a request to*
39 *be designated based on the requesting entity providing any VoIP*
40 *or IP-enabled service. The commission shall not, as a condition*

1 for either designation, impose any obligation that exceeds the
2 obligations imposed on state-designated eligible
3 telecommunications carriers in Subpart E (commencing with
4 Section 54.400) of Part 54 of Title 47 of the Code of Federal
5 Regulations, *except that designation as a lifeline provider does*
6 *not eliminate or diminish any obligation of a carrier of last resort*
7 *to provide basic service to any customer upon request, including*
8 *any eligible customer.*

9 (b) The commission shall require a lifeline provider to offer
10 only the minimum service elements to eligible lifeline customers
11 set forth in Section 54.101 (a) of Title 47 of the Code of Federal
12 Regulations. Lifeline support may be applied to any bundle or
13 package that includes voice service.

14 ~~SEC. 13.~~

15 *SEC. 14.* Section 877 of the Public Utilities Code is repealed.

16 ~~SEC. 14.~~

17 *SEC. 15.* Section 877 is added to the Public Utilities Code, to
18 read:

19 877. (a) Lifeline discounts shall be limited to one per
20 household. Nothing in this section effects the ability of a member
21 of a household to obtain an additional lifeline discount if that
22 member is medically certified as deaf or hard of hearing and has
23 continuous access to teletypewriter equipment, or its functional
24 equivalent, pursuant to Section 2881, and has been determined to
25 be an eligible customer by a third-party lifeline administrator.

26 (b) An applicant for lifeline support may report only one address
27 in the state as a principal place of residence.

28 ~~SEC. 15.~~

29 *SEC. 16.* Section 878 of the Public Utilities Code is repealed.

30 *SEC. 17.* Section 878 is added to the Public Utilities Code, to
31 read:

32 878. *This article does not eliminate or diminish the obligation*
33 *of a carrier of last resort to provide basic service to any customer*
34 *upon request, including to any eligible customer.*

35 ~~SEC. 16.~~

36 *SEC. 18.* Section 879 of the Public Utilities Code is repealed.

37 ~~SEC. 17.~~

38 *SEC. 19.* Section 879.5 of the Public Utilities Code is repealed.

39 ~~SEC. 18.~~

40 *SEC. 20.* Section 880 of the Public Utilities Code is repealed.

1 ~~SEC. 19.~~

2 *SEC. 21.* Section 882 of the Public Utilities Code is repealed.

3 ~~SEC. 20.~~

4 *SEC. 22.* Section 883 of the Public Utilities Code is repealed.

5 ~~SEC. 21.~~ By May 1, 2014, the Public Utilities Commission
6 shall revise General Order 153 to bring the lifeline program into
7 compliance with the changes made by this act. The commission
8 shall allow a lifeline provider a reasonable period of time, as
9 determined by the commission, to implement the requirements or
10 obligations of the Moore Universal Telephone Service Act as
11 amended by this act. The commission shall not adopt any
12 obligations, rules, or standards that exceed, or otherwise add to,
13 those that are expressly required by this act.

14 *SEC. 23.* Section 1001.7 is added to the Public Utilities Code,
15 to read:

16 *1001.7. The commission shall neither deny nor revoke a*
17 *certificate of public convenience and necessity applied for by or*
18 *issued to a telephone corporation that provides retail or wholesale*
19 *telecommunications services on the grounds that the telephone*
20 *corporation also provides Voice over Internet Protocol service or*
21 *any other unregulated service. This section does not expand the*
22 *commission's existing jurisdiction over any service or affect any*
23 *provision of Section 710. This section does not give any telephone*
24 *corporation any new rights or powers.*

25 *SEC. 24. (a) This act does not create or expand the Public*
26 *Utilities Commission's jurisdiction over any provider, service, or*
27 *technology. In implementing this act, the commission shall not*
28 *impose any new obligation, standard, or requirement upon any*
29 *provider, service, or technology that is not expressly required by*
30 *the act.*

31 *(b) By May 1, 2014, the commission shall revise General Order*
32 *153 to bring it into compliance with this act. The commission shall*
33 *eliminate or modify any rule that imposes substantive requirements*
34 *upon lifeline providers beyond the express terms of this act, but*
35 *may retain, modify, or enact rules governing the administration*
36 *of the lifeline program that are not inconsistent with this act,*
37 *including rules governing enrollment processes, eligibility forms,*
38 *the third-party administrator, the calculation of the fund and*
39 *establishment of the surcharge, reporting and remittances of*
40 *surcharges, use of electronic communications, and audits and*

1 *records. The commission shall allow a lifeline provider a*
2 *reasonable period of time to implement the requirements or*
3 *obligations of this act.*

4 ~~SEC. 22.~~

5 SEC. 25. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.